

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

v.

CRIMINAL ACTION NO. 2:21-cr-00062-01

LARRY ALLEN CLAY, JR.

ORDER

Pending before the court is a motion for leave to file under the “sealed criminal docket” in the above captioned matter. [ECF No. 168]. The motion was filed by counsel representing Defendant Larry Allen Clay, Jr., in his pending civil action that is based upon the same allegations as this criminal action.¹ Mr. Clay’s civil counsel seeks an order “granting leave to file under the criminal docket number in this matter in order to seek this Court’s permission to observe Defendant Clay’s criminal trial.” *Id.* at 1. While documents have been filed under seal in Mr. Clay’s criminal action, the case in its entirety is not sealed nor subject to a protective order as civil counsel suggests. Rather, two discrete protective orders have been entered in this matter governing dissemination of the alleged minor victim’s name and materials produced by

¹ The parallel civil action against Mr. Clay is pending in this court before Chief Judge Johnston and is captioned *Doe v. The City of Gauley Bridge, et al*, 2:21-cv-00491.

subpoena from the West Virginia Division of Corrections and Rehabilitation, respectively. [ECF Nos. 58, 138].

As to civil counsel's request for permission to observe Mr. Clay's criminal jury trial, the First Amendment protects the public from abridgment of its right of access to information about the operation of the government, including the judicial branch. *See Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 580 (1980) ("the right to attend criminal trials is implicit in the guarantees of the First Amendment; without the freedom to attend such trials, which people have exercised for centuries, important aspects of freedom of speech and of the press could be eviscerated."). Pursuant to this principle, the public, including civil counsel, is guaranteed the right to attend criminal trials. The motion [ECF No. 168] is **DENIED** because it is unnecessary for the court to give permission to the public to attend a criminal trial.

The court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: June 28, 2022



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE